

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 977 of 2000

to

FIRST APPEAL No 990 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE M.H.KADRI

and

Hon'ble MR.JUSTICE D.P.BUCH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
  2. To be referred to the Reporter or not? : NO
  3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
  4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
  5. Whether it is to be circulated to the Civil Judge? : NO

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SPL. LAND ACQUISITION OFFICER

Versus

DECD. RANCHHODBHAI FULABHAI (HEIRS OF DECD.)

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Appearance:

Ms. Hansa B Punani, AGP for Petitioners

MR VIJAY N RAVAL for Respondent No. 1

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CORAM : MR.JUSTICE M.H.KADRI

and

MR.JUSTICE D.P.BUCH

Date of decision: 11/07/2000

ORAL (COMMON) JUDGEMENT

The appellants have filed the above numbered First Appeals under Section 54 of the Land Acquisition Act, 1894 (for short 'the Act') read with Section 96 of the Code of Civil Procedure, 1908, challenging the common judgment and award dated March 12, 1999 passed by the learned 3rd Joint Civil Judge (SD), Panchmahals at Godhra in Land Reference Cases No.416 to 429 of 1990. As common questions of facts and law are involved in this group of First Appeals, they are disposed of by this common judgment.

2. Heard the learned Advocates for the parties. The Agricultural lands of village Sama, Taluka Kalol, District Panchmahals were needed for public purpose of Narmada Irrigation Project. The State Government, after scrutinising the proposal sent by the Executive Engineer, Narmada Project, Vadodara, for acquisition of the lands of village Sama issued notification under Section 4(1) of the Act which was published in the Official Gazette on 2.10.1986. After following the usual procedure under Section 5A(2) of the Act, declaration under section 6 of the Act was made which came to be published in the Official Gazette on September 24, 1987. Notices under section 9(3)(4) of the Act were served on the land owners to file their claims for compensation for their acquired lands. In response to the notices, the land owners appeared before the Land Acquisition Officer and claimed compensation at Rs.20/- per sq. metre. The Land Acquisition Officer made his award on December 11, 1989 and offered compensation for the acquired lands of village Sama at the rate of Rs.1.10 paise per sq. metre.

3. The land owners were of the opinion that the compensation offered by the Land Acquisition Officer was inadequate and, therefore, they filed written application under Section 18 of the Act requiring the Land Acquisition Officer to refer their applications to the District Court, Panchmahals for determination of the compensation of the acquired lands. Accordingly the said applications were referred by the Land Acquisition Officer to the District Court which came to be numbered as Land Acquisition Reference Cases No.416 to 429 of 1990. Before the Reference Court also the claimants claimed compensation at Rs.20/- per sq. metre. To substantiate their claims of enhanced compensation, the claimants examined one Shanabhai S Patel, applicant of

LAR No.426/90, at Exh.15. The witness deposed that village Sama was having all the facilities such as electricity, School, primary health centre etc. During his deposition, the witness produced certified copies of previous award Exh.12 in respect of the same village Sama wherein notification under Section 4 of the Act was issued on September 25, 1986. The award at Exh.12 indicates that the Reference Court, while disposing of LAR No.335/89 and other allied Reference Cases, had determined compensation of the acquired agricultural lands of village Sama as on September 25, 1986 at Rs.9.10 paise per sq. metre. The acquiring body and the State of Gujarat has challenged the previous award Exh.12 in the High Court by filing appeal wherein the Division Bench (B N Kirpal, C.J. & A N Divecha, J., as Their Lordships then were), by judgment and order dated February 6, 1995 had determined market value at the rate of Rs.7/- per sq. metre as on September 25, 1986. Learned Advocate for the respondent has produced copy of the order of the Supreme Court dated 25.9.1996 wherein the Supreme Court had dismissed the SLP filed against the compensation awarded by the High Court at Rs.7/- per sq. metre. Thus, the determination of the compensation of the acquired lands of village Sama was confirmed upto the stage of Supreme Court at Rs.7/- per sq. metre. The witness Shanabhai Patel at Exh.16 had stated that the previously acquired lands and the present acquired lands were having similar fertility. Thus, evidence of the said witness establishes that the present acquired lands as well as the acquired lands of previous award Exh.12 were comparable and relevant in all respects. Therefore, in our opinion, the Reference Court had not committed any error in placing reliance on the determination of market value of previously acquired lands of the same village as on September 25, 1986 at Rs.7/- per sq. metre. In the present appeals, the lands came to be acquired by notification issued under section 4(1) of the Act on October 2, 1986 which is the date in proximity of time with the notification of the previous award Exh.12. In the present appeals also the Reference Court had determined market value of village Sama at Rs.7/- per sq. metre, which in our opinion, is quite adequate and reasonable.

4. Heard the learned AGP Ms Hansa B Punani and learned Advocate Mr V N Raval who has appeared for the respondent claimants. Mr Raval has produced relevant documentary evidence and copy of the oral evidence led by the claimants. We have gone through the relevant documents. The contention raised by the learned AGP that the previous award Exh.12 was not relevant and comparable

does not deserve any merit and the same deserves to be rejected. Previous award Exh.12 which has become final was in respect of the acquired lands of village Sama wherein the market value of the acquired land was determined at Rs.7/- per sq. metre as on 25.9.1996. The reference Court has not committed any error in placing reliance on previous award Exh.12 for the determination of the market value of the present acquired lands. The lands of previous award Exh.12 and the present acquired lands were of the same village and were having same advantageous features. In our view, the Reference Court had awarded just, adequate and reasonable compensation to the respondent claimants for their acquired lands and we do not find any reason to interfere with the said determination of the compensation of the acquired lands. The statutory benefits extended in favour of the claimants under Section 23(1-A) and 23(2) and interest under Section 28 of the Act are eminently just and proper and do not call for any interference. However, it is clarified that the claimants-respondents shall not be entitled to solatium on the amount under Section 23(1-A) of the Act and no interest shall be paid on the amount of solatium as per the decision in the case of Prem Nath Kapur v. National Fertilizers Corporation of India, (1998(2) SCC 71).

With this clarification, we dismiss this group of Appeals. There shall be no order as to costs.

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msp.